IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

WEDNESDAY, THE 3RD JANUARY 2007 / 13TH POUSHA, 1928

WP(C).No. 365 of 2007(R)

PETITIONER:

M/S. A.J. DISTILLERIES,
PLOT NO.289A/424, INDUSTRIAL AREA
BAIKAMPADY, MANGALROE-575 011,
REPRESENTED BY ITS MANAGER
SHRI.D. VISWANATHA SHETTY.

BY ADV. SRI.T.M.SREEDHARAN
SRI.V.P.NARAYANAN

RESPONDENTS:

1. THE ASSISTANT COMMISSIONER (KGST)
SPECIAL CIRCLE-II, KOZHIKODE.

2. THE DEPUTY COMMISSIONER (APPEALS)
COMMERCIAL TAXES, P.O.ERANHIPALAM,
KOZHIKODE.

3. THE DEPUTY COMMISSIONER, D.K.
MANGALORE.

4. THE TAHSILDAR, MANGALORE TALUK,
MANGALORE.

BY GOVT.PLEADER SRI SOJAN JAMES

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN, J.

W.P.(C).NO.365 OF 2007

Dated this the 3rd day of January, 2007

JUDGMENT

This writ petition is filed challenging the interim order passed by the Appellate Authority requiring the petitioner to pay 50% of the disputed amount of tax as a condition for granting stay of recovery of the balance amount. The learned counsel for the petitioner vehemently contended that as per Ext.P1 assessment order 25% of the turnover reported has been added as probable omission and suppression without any materials supporting such addition. The matter is pending consideration in appeal. In such circumstances, based on a prima facie case in favour of the petitioner, the Appellate Authority has granted stay; but imposing a condition to pay 50% of the

amount of tax. It cannot be said in such circumstances that the order passed by the Appellate Authority imposing the condition in any way arbitrary or unreasonable. Ultimately whether the petitioner is entitled to succeed fully or partly is not a matter which could be decided now. In such circumstances, I decline the jurisdiction to interfere in the matter.

Writ Petition is dismissed.

P.R.RAMAN,
JUDGE.

kcv.